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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,522	11/02/2001	Srinivas Uppugunduri	6482	5896

7590 07/15/2003
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EXAMINER

KWON, BRIAN YONG S

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,522

Applicant(s)

UPPUGUNDURI, SRINIVAS

Examiner

Brian S Kwon

Art Unit

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 February 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Summary of Action

- I. Receipt is acknowledged of applicant's filing of a certified copy of Swedish Patent Application 9901615-6 filed on May 5, 1999 as required by 35 USC 119(b).
- II. The proposed drawing correction filed on February 21, 2003 is/are accepted by the Examiner.
- III. The objection of the specification will not be maintained in light of the amendment.
- IV. The objection of claim 7 will not be maintained in light of the amendment.
- V. The rejection of claims 1-5 under 35 USC 101 and 35 USC 112, second paragraph, will not be maintained in light of the amendment.
- VI. The rejection of claims 6-7 under 35 USC 103(a) will be maintained for the reason of the record.
- VII. Amended claim 6 is objected to because of misspelling of word "croup" in line 4. It is suggested to change it to "group".

Status of Application

1. By Amendment filed February 21, 2003, Claims 1-5 have been cancelled and Claims 6-7 have been amended. Claims 6-7 are currently pending for prosecution on the merits.

Claim Objections

2. Claim 6 is objected to because of misspelling of word "croup" in line 4. It is suggested to change it to "group".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over von Borstel et al. (US 5583117).

This rejection is analogous to the original rejection.

Response to Arguments

4. Applicant's arguments filed February 21, 2003 have been fully considered but they are not persuasive.

Applicant's argument takes position that it is erroneous to conclude that evidence of a beneficial effect of exogenous uridine and cytidine in assisting tissue repair functions automatically implies that the same substances would be therapeutically effective at acute and

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chronic inflammatory conditions completely diverse clinical picture and etiology (page 4, lines 2-6 of Remarks). This is spurious argument. Regardless of different etiology and clinical pictures of the claimed acute and chronic inflammatory conditions, one having ordinary skill in the art would have been expected as taught by von Borstel' 117 (column 17, lines 3-7 and lines 44-53; column 18, line lines 34-49) that exogenous uridine and cytidine is useful in treating the acute and chronic inflammatory conditions such as diabetes and arteriosclerosis. Therefore, it would have been prima facie obvious to a person skilled in the art to administer exogenous uridine, with the reasonable expectation of success, to treat diabetes and arteriosclerosis.

Applicant's discussion of US Patent No. 6329350 and US 5470838 is irrelevant to the Examiner's reasoning of the claimed rejection over sole reference von Borstel' 117. Therefore, no response will be made to such arguments.

Conclusion

5. No claim is allowed.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (703) 308-5377. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) 308-4725. The fax number for this Group is (703) 308-4556.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Brian Kwon

**ZOHREH FAY
PRIMARY EXAMINER
GROUP 1600**

A handwritten signature in black ink, appearing to read 'Zohreh Fay', is written below the printed name and title.